



Montoya, Darlene <dmontoya@nmag.gov>

Policy Use of Force

1 message

Estella Ortiz <estella_ortiz@lunacountynm.us>

Thu, Feb 9, 2017 at 4:04 PM

To: dmontoya@nmag.gov

Cc: kgannaway@lunacountynm.us

Ms Montoya,

Attached please find the pages from our current Manual of Operating Procedures which has been in effect since January, 2006. That was the last date it was revised.

Our Staff receives training on these policies on an annual basis.

Estella Ortiz

Executive Secretary

Luna County Sheriff's Department



2462 J Street, SE

Deming, NM 88030

575 546-2655

fax 575 546-8533

estella_ortiz@lunacountynm.us


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From: LCSO-Detective's Office [mailto:do_not_reply@lunacountynm.us]

Sent: Thursday, February 9, 2017 3:48 AM

To: ESTELLA <estella_ortiz@lunacountynm.us>

Subject: Scanned Image

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5.10 UNAUTHORIZED COMMUNICATIONS

No department employee or appointee shall release of any confidential information without authorization. The employee or appointee may held liable for awards for damages resulting from unauthorized release of confidential information. Any unauthorized release of confidential information contained in any part of the department's information system may subject the employee or appointee to disciplinary action.

CHAPTER VI

WEAPONS AND USE OF FORCE POLICIES

6.1 DUTY WEAPONS

All weapons and ammunition carried on duty by law enforcement officers shall meet with departmental specifications as outlined.

A. SPECIFICATIONS FOR DUTY WEAPONS

1. Handguns purchased and issued by the department to deputies shall be handguns of .40 caliber with a four inch barrel.
2. Members working in civilian dress may be allowed to carry a weapon with a barrel of less than four inches of an approved caliber.
3. No member shall alter or modify any weapon that is to be carried on duty. All repairs will be done by a qualified individual.
4. No weapon shall be equipped with the device, commonly referred to as a "trigger shoe". Nor shall it have a hammer that cannot be held in place by the security strap of the holster.
5. Grips shall be of such a design to allow the officer to fire the weapon accurately, and shall be suitable for use with either hand. Grips shall be of such design to be usable with the ammunition carriers.
6. Department personnel permitted to carry firearms may purchase their own firearms subject to the following conditions:
 - a. They are of .45, .44, .40, 9mm, or 10 mm calibers and;
 - b. They are of four-inch barrel length and;
 - c. The ammunition is of the department approved type and standards and;
 - d. The department employee or appointee purchases his/her own ammunition and requisite weapons holster and accessories.

B. QUALIFICATION

All Department personnel must qualify with the weapon that is to be carried, before being allowed to carry the weapon.

C. OFF DUTY CARRYING OF FIREARMS - POLICY

All full-time, certified, officers may carry a loaded, concealed, firearm while off duty within Luna County's jurisdiction, with the following exceptions:

1. In a licensed liquor establishment.
2. While consuming liquor.

D. OFF DUTY CARRYING OF FIREARMS - PROCEDURES

In order to carry a loaded, concealed, firearm an officer must:

1. Have received written permission from the Sheriff to carry a specific off-duty weapon with which the deputy is qualified.
2. Have qualified with that particular weapon in accordance with Department of Public Safety Training and Recruiting Division (DPS) recommended standards and departmental policies.
3. Observe the policy involving the use of alcoholic beverages precluding the carrying of a firearm.

6.2 SPECIAL WEAPONS

Special weapons are any automatic firing weapons, tear gas equipment and rifles. No special weapons shall be carried without specific authorization from the Sheriff.

Rifles may be issued by the Department to Deputies to carry in their assigned departmental vehicles at the discretion of the Sheriff.

Only rifles issued by the Department may be carried on duty or for duty purposes.

A deputy may carry an assigned rifle or other special weapon only if the deputy has been qualified with that specific weapon in accordance to Department and DPS recommended standards.

6.3 REGISTERING EQUIPMENT WITH DEPARTMENT

Members are required to register with the Sheriff's Department the description and serial numbers of all personal police equipment, i.e., sidearm, handcuffs, firearms, and special weapons they may carry.

6.4 FIREARMS: HANDLING & DISPLAY

- A. Members shall never display or draw firearms at any time, in any public place, except for departmental inspections or official use.
- B. Members are required to maintain department assigned weapons and permissible weapons clean, operable and secure to prevent theft, accident, accidental discharge, and availability for duty use.
- C. Accidental discharge or weapons misuse is subject to procedures outlined in Chapter VI, Section 6.5B.

6.5 DEADLY FORCE POLICY

Use of deadly force as defined in this policy is that force which is intended to cause death or great bodily harm or which creates some specified degree of risk that a reasonably prudent person would consider likely to cause death or grave injury.

A. DEADLY FORCE MAY RE USED FOR:

1. DEFENSE OF LIFE - an officer may use deadly force to protect himself or others from what he reasonably believes to be an immediate threat of death or great bodily harm.
2. ESCAPE - a deputy may use deadly force to effect the capture or prevent the escape of a suspect or prisoner if the officer has probable cause to believe that the suspect poses a significant threat of death or physical injury to themselves or others.
3. ANIMALS - the killing of an animal is justified for:
 - A. Self defense
 - B. To prevent substantial harm to the officer or another.
 - C. When the animal is so badly injured that humanity requires its relief from further suffering. The killing of an injured animal protected U.S. Fish & Wildlife laws, New Mexico Fish and Game laws, and New Mexico livestock regulations shall be done in accordance with those agency laws and regulations.
4. MOVING VEHICLES - deputies shall not discharge a firearm at or from a moving vehicle except as the ultimate measure of self-defense of himself or others when the suspect is in the act of using deadly force. Deputies shall not place themselves in the path of a moving vehicle in order to justify the use of deadly force. When discharging at or from a moving vehicle the deputies shall:
 1. Shoot only when a felony has been committed.
 2. Shoot only when there is a clear shot not endangering innocent bystanders.
 3. Use a shotgun only when practical.
 4. Use only Double ought (00) buckshot.
 5. Shoot only at tires when practical.

B. REPORTING DISCHARGED WEAPONS OR WEAPONS MISUSE

1. When any weapon is discharged, in the performance of a police function, whether deliberate or accidental, other than on a firing range, the immediate supervisor is to be notified as soon as possible, and a written report submitted to the Sheriff through proper channels. The written report shall contain the results of any investigation into safety violations, policy violations, negligence, training issues, or mechanical defects discovered by the supervisor or the deputy designated to investigate the discharge.
2. When any member of the department becomes aware of any duty, assigned, or permitted weapon having been misused, damaged, left unsecured, missing, lost or stolen, that member shall report it immediately to the most available supervisory officer. A supervisor designated to investigate the misuse, damage, or other mishandling of the weapon.

C. Before deadly force is used, there are four prerequisites:

1. OPPORTUNITY - does the suspect have the immediate opportunity to cause death or great bodily harm to the officer or other?
2. ABILITY - does the suspect have the ability or means to cause death or great bodily harm?
3. JEOPARDY - has the suspect put the officer or another in a life threatening or harmful situation?
4. BYSTANDERS - are there innocent bystanders in danger of being injured?

D. GUIDELINE FOR OFFICERS INVOLVED IN A SHOOTING

1. Render the area safe.
2. If the assailant has been wounded, he shall be promptly disarmed. Confiscate the weapon as evidence.
3. If the assailant is killed, the weapon shall not be removed unless there is a danger of it being stolen or used by someone else.
4. When the area is safe and the danger neutralized, the deputy shall holster the weapon or carry it with him/her until the appropriate investigator arrives. No changes to the conditions or removal of anything from the weapon or any reloading shall be permitted.
5. Render aid to the injured and summon medical personnel.
6. The deputy shall remain at the scene unless life-saving efforts require him/her to leave to summon assistance. All practical means of communications shall be used to summon assistance.
7. As soon as assistance is summoned, the officer shall note items such as information concerning fatalities or injuries, location of weapons, and names of people at the scene.
8. The officer shall note any items that are disturbed by medical personnel should they arrive at the scene before law enforcement personnel.
9. The officer shall not make any statements or release any information to anyone other than the investigator assigned to the case, and any supervisor in his/her chain of command.
10. The officer shall not investigate the case.

E. GUIDELINES FOR INVESTIGATORS OR SUPERVISING OFFICER RESPONDING TO THE SCENE

1. Notify appropriate superior officers.
2. Assign extra personnel to preserve the crime scene.
3. Set up a perimeter to secure the crime scene.
4. Assign extra personnel to identify any witnesses.
5. Make sure arriving officers do not question the officer involved in the shooting.
6. The officer involved in the shooting shall be removed from the scene by a superior officer and transported to the Sheriff's Department or to a medical facility to treat minor injuries.
7. Should the officer be transported to a local hospital because of injuries sustained in the

shooting, a supervising or superior officer shall accompany him/her to the hospital, and await further instructions from the Sheriff.

8. The case investigator shall confiscate the officer's weapon and the assailant's weapon.
9. Departmental officers shall not release any information to anyone, including the news media. This will be handled by the Sheriff.

F. REPORTING INCIDENTS INVOLVING USE OF FORCE

1. In cases where force was used to effect an arrest, the officer will notify his/her supervisor as soon as possible, and submit a written report to the Sheriff through proper channels.
2. Officers shall be required to cooperate with any investigation in which the use of force is used.

6.6 USE OF NON-LETHAL WEAPONS

- A. The baton, ASP (expandable baton) , taser, and Oleocapsicum Spray(OC) are tools designed with the philosophy of self protection and subduing the suspect, with minimum non-lethal danger to both the officer and the individual.
1. The baton, ASP (expandable baton) , taser, and Oleocapsicum Spray(OC) may be used by an officer for:
 - A. Protection of the officer's life or the life of another.
 - B. Effecting full custody arrest.
 - C. Protection of property.
 2. All officers must be properly trained in the use of both the baton, ASP (expandable baton) , taser, and Oleocapsicum Spray(OC) before being allowed to carry either on duty.
 3. When the baton, ASP (expandable baton) , taser, and Oleocapsicum Spray(OC) are used, and injuries are incurred, the officer will notify his/her supervisor as soon as possible and submit a written report to the Sheriff through proper channels.

B. Use of Taser

1. The Taser device may be used by deputies in accordance to the use of force Continuum:
 - a. The Taser device may be used by deputies in accordance to the use of force continuum as follows:
 - i. Officer Presence
 - ii. Verbal Direction
 - iii. Physical (Empty Hand Control)
 - iv. Less-than-Lethal Weapons (baton/ASP/OC/Taser)
 - v. Deadly force
 - b. The deputy's use of the level of forces shall be determined by the totality of the circumstances.

2. Deputies shall have successfully been trained and certified in the use of the Taser device before carrying it.
3. Deputies deploying the Taser shall:
 - i. Request paramedics respond to the scene.
 - ii. Not remove probes from the subject's eyes, neck, face, or groin.
 - iii. Notify the supervisor who shall respond to the scene.
4. Deputies certified in the use of the Taser device may remove probes from other areas of the subject's body utilizing latex or similar gloves and utilizing proper removal techniques.
5. Reporting Requirements for use of Taser
 - i. A deputy using the Taser shall complete a Use of Force form appropriate for the Taser device.
 - ii. A deputy shall report incidents involving the use of the Taser device in the appropriate incident reporting system.

CHAPTER VII

PRISONERS AND ARRESTS

7.1 ARRESTS

In making arrests, members shall strictly observe the laws of arrest and the following procedures will be followed:

- A. Only necessary restraint to assure safe custody and the safety of the officer shall be employed.
- B. The arresting officer is responsible for the safety and protection of the arrested person while in his custody.
- C. He shall notify the transporting officers of any injury, apparent illness, or other condition which indicates the arrested person may need special care.

7.2 USE OF PHYSICAL FORCE

The use of physical force shall be determined by the totality of circumstances facing the Deputy. Unnecessary force used by deputies, while affecting an arrest, could constitute misconduct. Whenever a deputy on or off duty is required to strike or use considerable physical force against another person, he/she shall contact his supervisor as soon as possible following the incident and submit a written report to the Sheriff through proper channels. The use of force shall follow the Use of Force Continuum as follows:

- A. Officer Presence
- B. Verbal Commands
- C. Empty hand control techniques.
- D. Less-Than Lethal: Baton/ASP (expandable baton)/OC Spray/Taser
- E. Deadly Force

7.3 CUSTODY OF PRISONERS

Members charged with the custody of prisoners, shall observe all laws and departmental orders regarding this activity. Prisoners shall be kept secure, treated firmly and humanely, and shall not be subjected to unnecessary restraint.